



**Qwest**  
607 14<sup>th</sup> Street, NW, Suite 950  
Washington, DC 20005  
Phone 202-429-3120  
Facsimile 202-293-0561

**Melissa E. Newman**  
Vice President – Federal Regulatory

EX PARTE

**FILED VIA ECFS**

September 29, 2005

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

RE: *CC Docket No. 01-92* Developing a Unified Intercarrier Compensation Regime

Dear Ms. Dortch:

On September 28, 2005, Melissa Newman, in person, and John Kure and Bob McKenna, by phone, all of Qwest, met with Jessica Rosenworcel, Legal Advisor to Commissioner Copps, regarding the above-named docket, specifically relating to the issue of “phantom traffic”.

In the meeting, Qwest stated that the phantom traffic phenomenon is a major and immediate threat to the current intercarrier compensation regulatory structure and that steps need to be taken immediately to deal with this situation. From Qwest’s perspective, phantom traffic describes a number of situations in which the traffic is delivered to a terminating carrier in a manner that makes appropriate billing impossible, including transiting situations where the terminating carrier does not have enough information to bill the originating carrier, or terminating access traffic that has been erroneously designated as interstate when in fact it is jurisdictionally intrastate or has been erroneously designated as end user traffic.

Qwest asks the Commission to take four steps immediately to deal with the phantom traffic problem. First, the Commission should clarify that originating carriers may not lawfully conceal or alter any identifying information in a call that permits proper billing. Second, the Commission needs to clarify that transit carriers are not liable to terminating carriers for traffic they deliver. Third, the Commission should clarify that the jurisdiction of any call is based on the end-points of the call. In the case of an end user to end user call, the end-points are the locations of the called and calling parties. In the case of an end user to or from ISP call (including IP voice), the end points of the call are the calling(ed) party and the ISP POP. This is consistent with a proper interpretation of the “ESP exemption,” which simply treats an ISP/ESP POP as an end user premise for access charge purposes. Finally, the Commission should clarify that efforts by carriers to avoid access charges by including “information” or

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“processing” in their long-distance calls in a manner that does not meet the strict tests for an information/enhanced service under the Computer Inquiry II rules are not compliant with the law and expose such carriers to, among other things, disconnection by injured LECs.

Sincerely

/s/ Melissa E. Newman  
Vice President-Federal Regulatory  
Qwest

Copy to:  
Jessica Rosenworcel